

Appl. No. 09/931,193
Resp. Dated July 6, 2005
Reply to Office Action of Oct. 6, 2004

REMARKS/ARGUMENT

I. Status of the Claims

Claims 5-11, 13, 15-18, and 20-24 are pending.

Claims 5-6, 9, 11, 15-18, 20 and 23 stand rejected.

Claims 7, 8, 10, 13, 21, 22 and 24 are objected.

II. Rejections Under 35 U.S.C. § 102(b)

Claims 5, 9, 11, 17 and 20 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Ahmad et al (Physiologia Plantarum, 1987, 69(1), 137-40) Ahmad teaches the use of 4-chloroindole-3-acetic acid, but is silent regarding the application to the leaf face by a sprayer or other method. Ahmad teaches root growth in a cutting and not the applicants claimed method.

The anticipation rejection of claims 5, 9, 11, 17 and 20 is improper because to form a valid prima facie case of anticipation it is required that a single reference is shown to each and every element of the rejected claims. See Crown Operations Int, Ltd. V. Solutia Inc., 289 F.3d 1367, 1375, 62 USPQ2d 1917, 1921 (Fed. Cir. 2002); In re Spada, 911, F.2d 705, 708, 15 USPQ2d 1655, 1657 (Fed. Cir. 1990) ("[T]he reference must describe the applicant's claimed invention sufficiently to have placed a person of

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ordinary skill in the field of the invention in possession of it."). Ahmad does not teach the use of a sprayer nor the application to the leaves to induce root growth as required by Applicants claims. This failure to address all required claim elements either expressly or inherently makes the rejection improper.

Applicants respectfully request reconsideration and removal of the anticipation rejection of claims 5, 9, 11, 17 and 20 in light of the Applicants arguments.

Claims 5, 9, 11, 17 and 20 stands rejected under 35 U.S.C. § 102(b) as being anticipated by Katayama (Bioscience, Biotechnology, and Biochemistry, Department, 2000, 64(4) 808-15). Katayama teaches the application of 4-chloroindole-3-acetic acid to cuttings. The applicants traverse the rejection as improper for failing to teach all of the applicants claim limitations because to form a valid prima facie case of anticipation it is required that a single reference is shown to each and every element of the rejected claims.

Katayama does not teach the use of a sprayer nor the application to the leaves to induce root growth as required by Applicants claims. This failure to address all required claim elements either expressly or inherently makes the

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rejection improper. Applicants respectfully request reconsideration and removal of the anticipation rejection of claims 5, 9, 11, 17 and 20 in light of the Applicants arguments.

III. Rejections Under 35 U.S.C. § 103

Claims 6, 15, 16 and 23 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Ahmad as applied to claims 5, 9, 11, 17, and 20 above. Applicants traverse this rejection as improper for failing to teach each and every element of the rejected claims. As discussed above Ahmad is insufficient to satisfy an anticipation rejection of claims 5, 9, 11, 17, and 20 and no further prior art is cited in combination with Ahmad other than a general statement regarding spraying, but not related to the induction of root growth from cuttings.

Applicants respectfully request that the examiner submit a declaration of all facts regarding the personal knowledge of how the application of 4-CL-IAA to a leaf of a cutting to induce root growth is common knowledge possessed by one skilled in the art prior to the filing of the application or the rejection must be withdrawn.

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Applicants respectfully request that the obviousness rejection of claims 6, 15, 16 and 23 be withdrawn.

Claims 6, 15, 16 and 23 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Katayama as applied to claims 5, 9, 11, 17, and 20 above. Applicants traverse this rejection as improper for failing to teach each and every element of the rejected claims. As discussed above Katayama is insufficient to satisfy an anticipation rejection of claims 5, 9, 11, 17, and 20 and no further prior art is cited in combination with Katayama other than a general statement regarding spraying, but not related to the induction of root growth from cuttings.

Applicants respectfully request that the examiner submit a declaration of all facts regarding the personal knowledge of how the application of 4-CL-IAA to a leaf of a cutting to induce root growth is common knowledge possessed by one skilled in the art prior to the filing of the application or the rejection must be withdrawn. Applicants respectfully request that the obviousness rejection of claims 6, 15, 16 and 23 be withdrawn.

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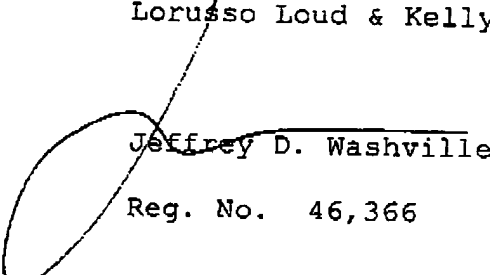
V Conclusion

Based on the foregoing, it is respectfully requested that all rejections be withdrawn and the application be passed to issue.

Respectfully submitted,

Lorusso Loud & Kelly LLP

Dated: 6 JAN 05

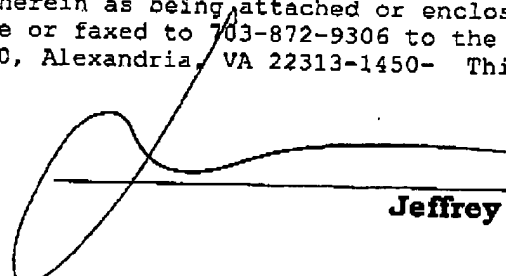

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Certificate of Under 37 C.F.R. §1.8

The undersigned hereby certifies that this paper along with any paper or document referred to therein as being attached or enclosed, is being mailed with proper postage or faxed to 703-872-9306 to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450- This 6th day of JANUARY 2005.


Jeffrey D. Washville